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EASTMAN KODAK COMPANY
PAUL A. LEIPOLD
PATENT LEGAL STAFF
ROCHESTER, NY 14650-2201

EXAMINER	
WALKE, AMANDA C	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Application Number: 10/764,704
Filing Date: January 26, 2004
Appellant(s): RAMSDEN ET AL.

J. Lanny Tucker
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 9/11/2006 appealing from the Office action mailed 11/15/2005.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

6,440,649	Simpson et al.	8-2002
6,573,033	Simpson et al.	6-2003
FR1.542.505	Matsuta	6-1967

JP 02-048659 Taguchi 2-1990

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Simpson et al (6,440,649 or 6,573,033) in view of Masuta (1.542.505) or Taguchi (JP 02-048659).

Simpson et al disclose X-radiation sensitive photothermographic imaging materials contain X-radiation sensitive phosphors in association with photosensitive silver halide. These phosphors provide an increase in imaging sensitivity and improved image contrast. Both intensifying and storage phosphors can be used. Silver-containing photothermographic imaging materials that are developed with heat and without liquid development have been known in the art for many years. Such materials are used in a recording process wherein an image is formed by imagewise exposure of the photothermographic material to specific electromagnetic radiation (for example, visible, ultraviolet, or infrared radiation) and developed by the use of thermal energy. These materials, also known as "dry silver" materials, generally comprise a support having coated thereon: (a) photosensitive catalyst (such as silver halide) that upon such exposure provides a latent image in exposed grains that are capable of acting as a catalyst for the subsequent formation of a silver image in a development step, (b) a non-photosensitive source of

reducible silver ions, (c) a reducing composition (usually including a developer) for the reducible silver ions, and (d) a hydrophilic or hydrophobic binder. The latent image is then developed by application of thermal energy. The non-photosensitive source of reducible silver ions is a material that contains reducible silver ions. Typically, the preferred non-photosensitive source of reducible silver ions is a silver salt of a long chain aliphatic carboxylic acid having from 10 to 30 carbon atoms, or mixtures of such salts. Such acids are also known as "fatty acids" or "fatty carboxylic acids". Silver salts of other organic acids or other organic compounds, such as silver imidazoles, silver tetrazoles, silver benzotriazoles, silver benzotetrazoles, silver benzothiazoles and silver acetylides have also been proposed. The reducing agent (or reducing agent composition comprising two or more components) for the source of reducible silver ions can be any material, preferably an organic material, that can reduce silver (I) ion to metallic silver. Conventional photographic developers such as methyl gallate, hydroquinone, substituted hydroquinones, hindered phenols, amidoximes, azines, catechol, pyrogallol, ascorbic acid (and derivatives thereof), leuco dyes and other materials readily apparent to one skilled in the art can be used. When storage phosphors are incorporated within the photothermographic materials, the initial exposure to X-radiation is "stored" within the phosphor particles. When the material is then later exposed a second time to stimulating electromagnetic radiation (usually to visible light or infrared radiation), the "stored" energy is then released as an emission of visible or infrared radiation. The photothermographic materials may then be developed by heating. BaFBr disclosed herein is such a storage phosphor. It may also be desirable to use the photothermographic materials of this invention in combination with one or more conventional fluorescent intensifying screens (also known as radiographic phosphor panels) or metal intensifying screens. Such

screens are well known in the art. For example, a fluorescent intensifying screen can be positioned in "front" of the photothermographic material so exposing X-radiation passes through the screen before striking the photothermographic material. Other conventional arrangements of screens and photothermographic materials in imaging assemblies or cassettes would be readily apparent to a skilled artisan. While the references teach that ascorbic acid and derivitves may be employed as reducing agents, the reference is silent with respect to the specific compounds that fall within this category.

Masuta disclose a photothermographic silver halide film comprising non photosensitive source of reducible silver (preferred has an imino group; benzotriazole in examples), reducing agent meeting the instant claim limitations, a binder, and photosensitive silver halide (preferably silver bromide and/or iodide).

Taguchi disclose a thermally developable photosensitive material comprising a binder, photosensitive silver halide (silver bromoiodide per examples on page 556), a dye/ reducing agent (which meets the instant claim limitations), and a tetrazole compound.

Given the teachings of the references, it would have been obvious to one of ordinary skill in the art to prepare the material of Simpson et al choosing to employ the ascorbic acid reducing agents of Masuta or Taguchi with reasonable expectation of achieving a material having increased sensitivity/ speed.

(10) Response to Argument

Appellant has argued that the references of record fail to teach the required elements of the instant claims and that the Matsuta and Taguchi may not be combined with the Simpson reference(s). As discussed above, the Simpson references disclose a material falling within the

scope of the instant claim(s) with the exception of the specific ascorbic acid dervitative. The references do teach that ascorbic acid compounds may be included in the material, but failt to disclose any specific examples of such compounds. With respect to Matsuta, applicant has argued that the reference fails to teach the aqueous-based material and that the compound of the reference fails to would not function in a material similar to that of the instantly claimed material with a declaration demonstrating this. Firstly, the reference is relied upon solely for its teachings that ascorbic compounds are employed in any photothermographic material as reducing agents, not for its teaching of the material itself. Additionally, while the applicant may be persuasive with respect to the 1-ascorbyl palmitate, stearate, mryristate, and laurate compounds (which have 15, 17, 11, and 12 carbon atom chains respectively, which are quite large for carbon chains and it is well known that the larger the chain, the less soluble the compound is), the reference further teaches compounds that meet the limitations of the reference by having an alkyl group or aryl group as a substituent (see compounds II-IV). An aryl group has 6 carbon atoms, and the smallest alkyl group has 1 carbon atom, and the reference is not limited to the large carbon chains because that is what is exemplified. Given the above listed structures, smaller chain are contemplated, thus the evidence demonstrating that only large chain compounds will not dissolve are not persuasive and the rejection is maintained. With respect to Taguchi, a similar argument about the material is provided. However, the reference is relied upon solely for its teachings that ascorbic compounds are employed in any photothermographic material as reducing agents, not for its teaching of the material itself, and it is the position of the examiner that reducing agents are well known compounds employed in color and black and white photothermographic materials. Appellant has also argued that the cited references fail to address the problem the

instant invention aims to solve. From the MPEP:The prima facie case of obviousness is not undermined simply because applicant's motivation for teaching to add the compound to the material differs from that of the prior art's motivation. In re Dillon, 919 F.2d 688, 692-93, 16 USPQ2d 1897, 1901 (Fed. Cir. 1990) (in banc), cert. Denied, 500 U.S. 904 (1991).

For these reasons the rejection of record is maintained.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

Amanda C. Walke Amanda C Walke

Conferees:

Cynthia Kelly Cynthia H Kelly

/Jennifer Michener/

Quality Assurance Specialist, TC1700

Jennifer Michener